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EXAMINER	
SWEARINGEN, JEFFREY R	

ART UNIT	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/894,917	MACER ET AL.	
	Examiner	Art Unit	
	Jeffrey R. Swearingen	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-99* is/are pending in the application.

4a) Of the above claim(s) *1-41* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *42-99* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 42-59 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant has amended claims 42-59 to "preclude interpretation in accordance with 35 U.S.C. §112, sixth paragraph". Said amendment has rendered the claims non-statutory. Applicant is not allowed to claim a computer usable medium **or** a memory for use in a computer. A memory for use in a computer is non-statutory because it is not present on a computer usable medium. Merely having the computer usable medium present in the claim in an alternative embodiment does not make the claim statutory.

Claim Rejections - 35 USC § 102

3. Claims 42-44, 50-51, 53, 60-63, 65-67, 73-75, 77, 91 and 94 are rejected under 35 U.S.C. 102(e) as being anticipated by Hawkins (U.S. Patent No. 6,516,202).

4. Claim 42 claims a computer program product comprising a computer usable medium having computer readable program code embodied therein (Hawkins discloses a computer readable medium, or ROM in Figure 4, item 125, which contains code as shown in Figure 5A, items 520-530, including cellular software for the computer) executable by a portable entertainment machine (a "portable (an "organizer component" (Column 2, line 33) that "may be any handheld computer, or small size electronic device." (Column 2, lines 35-36). The American Heritage College Dictionary defines "portable" as "carried or moved with ease." A handheld computer is capable of being carried or moved with ease) entertainment (The American Heritage College Dictionary defines "entertainment" as "something that amuses, pleases, or diverts," and defines "divert" as "to distract," and defines "distract" as "to cause to turn away from the original focus of attention or interest." The mobile computer system described by Hawkins can cause a user to change their focus of attention when the device alerts them to an incoming telephone call, therefore it distracts the user. Because the device distracts the user, it can be stated that the device

diverts the user; and because the device diverts the user, it can be stated that the device is a form of entertainment.) machine comprising a digital object store adapted to store digital objects (The mobile computer system designed for wireless communication expansion includes a personal organizer (Column 1, line 44), which can hold data for a schedule or an address book (Column 1, lines 16-17). In order to hold the data, the mobile computer system must have a memory unit to store the data), having a short-range wireless transceiver device capable of transmitting and receiving signals that are representative of a digital object to and from the transceiver of another portable entertainment device (The mobile computer system discloses a cellular element (Column 3, line 36) with a data connection button (Column 3, line 37) which allows a user to connect for access to the World Wide Web, e-mail, fax, or other data transfer (Column 3, lines 43-45). Because the cellular element can be utilized as a telephone (Column 2, lines 20-21), it is inherent that it can both receive and transmit signals), and a manually operable control adapted to permit the user of the entertainment machine to exercise at least some control over swapping of digital objects between the digital object stores of two or more such entertainment machines." (The mobile computer system includes a touch screen (Figure 3A, Items 305 and 310). Both the push buttons and the touch screen require manual operation by the user. The touch screen is adaptable, as shown in Figure 8A)).

5. Claim 43 claims a display adaptable to display a list of the objects held in the store and capable of displaying a more detailed representation of a digital object when that object is selected from the list. (Figure 8A of Hawkins discloses a speed dial screen where when a user selects a name button in Item 810, a more detailed description of the selected button appears in Item 820.)

6. Claim 44 claims a machine adaptable to provide to the user information on data objects that become potentially available to be acquired from a similar machine (Similar machine can be defined as any machine capable of storing and transmitting data to the mobile computer system) that comes within range of the machine (Because the mobile computer system utilizes cellular technology, it is able to be in range of any similar machine that is on a telephone network connected to a cell tower by any telephonic means) to enable the user to take a decision on whether or not to proceed with a potential swapping transaction. Claim 49 claims a machine provided with an alert device (Figure 8A of Hawkins discloses a

screen (item 810) at the top of which indicators are displayed. These indicators, or alerts, include a signal strength indicator (Column 7, lines 30-31) and a message indicator (line 30) that can indicate either a voicemail message or a text/e-mail message (line 33) is available to be received) for alerting the user to the availability of a potential swap. (The signal strength indicator tells whether the phone is in range of receiving data objects. If a message indicator is present, the user is able to make a decision on whether to download the voicemail, text or e-mail message. If the user decides to download the message, the mobile computer system must send infomation from the transmitter to the similar machine to retrieve the message. Because data is transmitted and received by the mobile computer system to a similar machine in order to download the message, data is swapped with a similar machine.)

7. Claim 50 claims a machine adaptable to transmit an incomplete digital object for sampling by the user of another machine. (Figure 3A of Hawkins shows a cellular component (item 350), which inserts into an organizer component (item 300) to form a mobile computer system. The cellular element (item 350) enables the user to initiate a data connection, for access the World Wide Web, e-mail, fax, or other data transfer. Figure 5A shows the flowchart for integrating the cellular component and the organizer component (Column 5, lines 9-11) to form the mobile computer system. At block 540, the system determines whether the cellular element has been removed from the slot (lines 45-46). Since the information is being transmitted to the transceiver in the cellular component and is controlled by the computer in the organizer component, separating the cellular component and the organizer component will terminate any communication between the organizer and the transceiver, thus terminating any transmissions from the transceiver. By removing the cellular component during transmission of a digital object, a user is able to transmit an incomplete digital object. Since another machine would only receive a portion of a digital object transmitted if the transmission were terminated in this manner, it would in essence be sampling the digital object for the user.)

8. Claim 51 claims a machine adaptable to transmit a data object for sampling over a limited length of time to facilitate making a decision whether or not the data object is to be acquired by proceeding with a swap transaction. (As applied to Claim 50, a machine can terminate its connection with the cellular component by separating the two portions of the machine. Terminating the connection between the

cellular component and the organizer component will terminate either a transmission in progress or a reception in progress since separating the cellular and organizer components will prevent the physical connection between the two necessary to complete the transmission or reception. A user is able to make a decision to acquire the data object, and if user chooses not to receive the object user can separate the two components of the mobile computer system to terminate the connection after receiving a portion, or sample, of the data object over a limited length of time.)

9. Claim 53 claims manually operable selection means (Hawkins discloses an electronic display area which user can write upon in Figure 3A, item 310.) to enable the user of the machine to select which data objects are transferred from the retention portion of the store to the selected article window portion of the store and vice-versa. (said electronic display is adaptable based upon selection of data objects as disclosed in Figure 8A. In Figure 8A, selection of a particular data object in item 810 executes instructions on the mobile computer system and moves the data object (in the case of Figure 8A a name and telephone number) to fill the screen)

10. In regard to claim 60, Hawkins discloses a digital object store adapted to store digital game objects; a short-range wireless transceiver device capable of respectively transmitting and receiving signals to and from a transceiver of another portable entertainment machine, the signals being representative of a digital game object; a user-activated control; an output device; an electronic processor; and a memory storing a program, the memory program being coupled with the control, the transceiver, the electronic processor, the output device, and the digital object store so that in response to the user responding to the output device and activating the control, the program stored in the memory causes the transceiver to be coupled to be responsive to the store and to the transceiver of another machine so the user of the entertainment machine can, by using the control, exercise at least some control over swapping of digital game objects between the digital store of said other entertainment machine; a housing carrying the store, transceiver, processor, output device, control and memory, the housing and the things in it having a weight and size enabling the housing to be held by the user. [Hawkins discloses a "portable (an "organizer component" (Column 2, line 33) that "may be any handheld

computer, or small size electronic device." (Column 2, lines 35-36). The American Heritage College Dictionary defines "portable" as "carried or moved with ease." A handheld computer is capable of being carried or moved with ease) entertainment (The American Heritage College Dictionary defines "entertainment" as "something that amuses, pleases, or diverts," and defines "divert" as "to distract," and defines "distract" as "to cause to turn away from the original focus of attention or interest." The mobile computer system described by Hawkins can cause a user to change their focus of attention when the device alerts them to an incoming telephone call, therefore it distracts the user. Because the device distracts the user, it can be stated that the device diverts the user; and because the device diverts the user, it can be stated that the device is a form of entertainment.) machine comprising a digital object store adapted to store digital objects (The mobile computer system designed for wireless communication expansion includes a personal organizer (Column 1, line 44), which can hold data for a schedule or an address book (Column 1, lines 16-17). In order to hold the data, the mobile computer system must have a memory unit to store the data), having a short-range wireless transceiver device capable of transmitting and receiving signals that are representative of a digital object to and from the transceiver of another portable entertainment device (The mobile computer system discloses a cellular element (Column 3, line 36) with a data connection button (Column 3, line 37) which allows a user to connect for access to the World Wide Web, e-mail, fax, or other data transfer (Column 3, lines 43-45). Because the cellular element can be utilized as a telephone (Column 2, lines 20-21), it is inherent that it can both receive and transmit signals), and a manually operable control adapted to permit the user of the entertainment machine to exercise at least some control over swapping of digital objects between the digital object stores of two or more such entertainment machines." (The mobile computer system includes a touch screen (Figure 3A, Items 305 and 310). Both the push buttons and the touch screen require manual operation by the user. The touch screen is adaptable, as shown in Figure 8A)]. By this rationale claim 60 is rejected.

11. In regard to claim 61, Hawkins is applied as in claim 60. Hawkins further discloses *a visual display*. Figure 9B of Hawkins shows an example screen output for the mobile computer system with

icons displayed on the electronic display shown in Figure 3A, Item 305. By this rationale claim 61 is rejected.

12. In regard to claim 62, Hawkins is applied as in claim 61. Hawkins further discloses *the display is adapted to display the entire contents of the digital object store.* Figure 8A of Hawkins discloses the output of the electronic screen as used for a phone application. The output varies based upon the selections of the user; therefore the display is adaptable. Item 810 of Figure 8A shows a listing of the user's entire speed dial listings. The speed dial listings are saved in ROM (Figure 4, Item 425) in the cellular component to the personal organizer (Figure 8A, item 850). Therefore the display is able to show the entire contents of the digital object store. By this rationale claim 62 is rejected.

13. In regard to claim 63, Hawkins is applied as in claim 61. Hawkins further discloses *the display is adapted to display a list of the game objects held in the store and is capable of displaying a more detailed representation of a particular digital game object in response to the user activating the control to select the particular game object from the list.* Figure 8A of Hawkins discloses a speed dial screen where when a user selects a name button in Item 810, a more detailed description of the selected button appears in Item 820. By this rationale claim 63 is rejected.

14. In regard to claim 65, Hawkins is applied as in claim 60. Hawkins further discloses *a hand responsive device.* Figure 3A discloses a writing area (Item 310) on which a user may enter information. For one embodiment, the user may also enter information manually by writing directly on screen 305. (Column 2, lines 56-59) By this rationale claim 65 is rejected.

15. In regard to claim 66, Hawkins is applied as in claim 60. Hawkins further discloses *the size of the housing is such that the housing can be put in a clothes pocket of the user.* Hawkins discloses a mobile computer system comprising an organizer component and a cellular component (Column 2, lines 33-34). The cellular component (Figure 3A, Item 350) inserts into the organizer component (Item 300). The organizer component may be any handheld computer or small size electronic device. (Column 2, lines 35-36). Because the cellular component fits into the organizer component as shown in Figure 3A, the cellular component will minimally increase the footprint of the organizer when combined into a mobile computer system. Because the organizer component is a small size electronic device and the addition of

the cellular component will minimally increase the size of the device, the device is suitable for putting in a pocket. By this rationale claim 66 is rejected.

16. In regard to claim 67, Hawkins is applied as in claim 60. Hawkins further discloses *the program stores control steps for causing the processor and digital game object store to supply to the output device user information about game objects that become potentially available to be acquired from the another machine in response to the another machine being within range of the machine, the user information enabling the user of the machine to make a decision on whether or not to proceed with a potential swapping transaction.* Because the mobile computer system utilizes cellular technology, it is able to be in range of any similar machine that is on a telephone network connected to a cell tower by any telephonic means. Hawkins discloses a machine provided with an alert device (Figure 8A of Hawkins discloses a screen (item 810) at the top of which indicators are displayed. These indicators, or alerts, include a signal strength indicator (Column 7, lines 30-31) and a message indicator (line 30) that can indicate either a voicemail message or a text/e-mail message (line 33) is available to be received) for alerting the user to the availability of a potential swap. (The signal strength indicator tells whether the phone is in range of receiving data objects. If a message indicator is present, the user is able to make a decision on whether to download the voicemail, text or e-mail message. If the user decides to download the message, the mobile computer system must send information from the transmitter to the similar machine to retrieve the message. Because data is transmitted and received by the mobile computer system to a similar machine in order to download the message, data is swapped with a similar machine. By this rationale claim 67 is rejected.

17. In regard to claim 73, Hawkins is applied as in claim 60. Hawkins further discloses *the output device includes an alert device, the program storing steps for controlling the processor, transceiver and alert device for alerting the user to the availability of a potential swap in response to a signal received by the transceiver from the another machine.* The limitations of this claim are substantially the same as the limitations embodied within claim 49; therefore the rejection against claim 49 is equally applicable to claim 73. By this rationale claim 73 is rejected.

18. In regard to claim 74, Hawkins is applied as in claim 60. Hawkins further discloses *the program stores steps for controlling the store, processor and transceiver for causing the transceiver to transmit an incomplete digital game object stored in the store for sampling by the user of the another machine.* The limitations of this claim are substantially the same as the limitations embodied within claim 50; therefore the rejection against claim 50 is equally applicable to claim 74. By this rationale claim 74 is rejected.

19. In regard to claim 75, Hawkins is applied as in claim 60. Hawkins further discloses *the program stores steps for controlling the store, processor and transceiver for causing the transceiver to transmit a game object for sampling over a limited length of time.* The limitations of this claim are substantially the same as the limitations embodied within claim 51; therefore the rejection against claim 51 is equally applicable to claim 75. By this rationale claim 75 is rejected.

20. In regard to claim 77, Hawkins is applied as in claim 70. Hawkins further discloses *the program stores steps for controlling the processor, the retention and the selected article window portions for transferring selected data objects in response to a user activation of the control from the retention portion of the store to the selected article window portion of the store and vice-versa in response to user activation of the control.* The limitations of this claim are substantially the same as the limitations embodied within claim 53; therefore the rejection against claim 53 is equally applicable to claim 77. By this rationale claim 77 is rejected.

21. In regard to claim 91, Hawkins is applied as in claim 61. Hawkins further discloses the processor and program enable the machine to be operable as a mobile telephone, said display being used to display telephone functions of the telephone. Claim 91 claims a machine adaptable to be operable as a mobile telephone (Figure 3A of Hawkins shows a cellular component (item 350) being connected to an organizer component (item 300) forming a mobile computer system designed for wireless communication expansion. Figure 5A shows a flow chart for operation of the mobile computer system upon detection that the cellular component has been attached to the organizer component. Item 510 in Figure 5A is the start of the flow chart, and after recognizing the cellular component (item 515) and performing setup functions (items 520, 525, 530) the mobile computer system functions as organizer and telephone (item 535)), said display being used to display the telephone functions. (Figures 8A, 8B, and 8C show the

display output for the telephone functions, including a keypad for dialing (Fig. 8A, item 825) and the ability to hang up (Fig. 8A, item 840)) By this rationale claim 91 is rejected.

22. Claim 94 claims apparatus (As applied to Claim 60, Hawkins discloses a mobile computer system designed for wireless communication expansion) to enable a plurality of players to swap digital objects, the apparatus comprising a short-range wireless network (The mobile computer system includes a cellular component, which when connected to another machine via a cell tower comprises a short-range wireless network.), a plurality of portable entertainment machines for carrying by respective players, each machine being as claimed in Claim . (The mobile computer system is able to communicate via CDMA (Carrier Detect, Multiple Access) or TDMA (Time Division, Multiple Access) with the cellular component (Column 2, lines 42-44). Multiple Access means more than one system can access the cell tower, therefore more than one machine can access the network to swap digital objects.) By this rationale claim 94 is rejected.

Claim Rejections - 35 USC § 103

23. Claims 45 and 68-69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claims 42 and 60 above, and further in view of Langseth et al. (U.S. Patent No. 6,741,980).

24. Claim 45 claims code means to provide the functionality of being provided by the user with a standing instruction to swap a certain data object or category of data objects in the data object store for another specified data object or category of data objects if such a required object or object category becomes available for swap, and any conditions imposed on the swap by the user are complied with. Claim 68 meets the same limitations as claim 45. In regard to claim 69, Hawkins is applied as in claim 68.

25. Hawkins discloses a mobile computer system capable of initiating a data connection for access to the World Wide Web, e-mail, fax, or other data transfer (Column 3, lines 43-45). Hawkins fails to disclose a standing instruction to swap data objects when they become available with user imposed conditions.

26. Langseth discloses a system and method that actively delivers information to individuals via e-mail, spreadsheet programs (over e-mail), pager, telephone, mobile phone, fax, personal digital assistants, HTML e-mail, WAP devices and other formats (Column 3, lines 10-14). A subscriber signs up to receive a service from a channel of information (Column 3, lines 20-23), which may be delivered based upon a schedule, an exception (such as an alert trigger condition) or upon initiation by an external system or person. (Column 3, lines 36-39) When a subscriber signs up to receive a service, that action can be considered a continuous request for information and data, or a standing instruction with user imposed conditions to swap data objects if requested data objects become available. A channel can be information and transactional data about a particular field of interest, such as business, weather, sports, news, investments, traffic and others. For example, a weather channel could deliver information and data about weather conditions when a special weather alert is present (Column 9, lines 39-54).

27. There is motivation for the inventor to use the Langseth system and method with the Hawkins mobile computer system. The American Heritage College Dictionary defines personal digital assistant as a "lightweight, hand-held, usually pen-based computer used as a personal organizer." Hawkins meets this definition as applied to Claim 42. Hawkins also includes the functionality of a unitary cellular telephone (Column 2, line 21). Langseth's system and method is designed for use with mobile phones and personal digital assistants (Column 3, lines 12-14). It would be obvious to one of ordinary skill in the art that since the Hawkins mobile computer system functions as two of the devices that Langseth's system is designed for use with, that Langseth's system should be applied to Hawkins. By this rationale claims 45 and 68 are rejected.

28. Claims 46-48 and 70-72 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claims 42 and 60 above, and further in view of McDonald (U.S. Patent No. 6,745,197).

29. Claims 46 and 70 claim a retained object portion for storing data objects which the user has decided to keep and a selected article window portion of the data store in which data objects are placed

for which the user has taken a preliminary decision to dispose of provided an acceptable swap deal can be arranged.

30. Claims 47 and 71 claim when a portable entertainment machine comes into range of a similar machine, information is transmitted to the other machine to inform the other machine of the content of the selected window store.

31. Claims 48 and 72 claim a reciprocal display portion to display the contents of the selected article window store of another machine that comes into range.

32. Figure 8A of Hawkins discloses a screen (item 810) at the top of which indicators are displayed. These indicators include a signal strength indicator (Column 7, lines 30-31) and a message indicator (line 30) that can indicate either a voicemail message or a text/e-mail message (line 33) is available to be received. These indicators can be also called alerts because they alert the user to the presence of a message to be downloaded. Similar machine can be defined as any machine capable of storing and transmitting data to the mobile computer system. Because the mobile computer system utilizes cellular technology, it is able to be in range of any similar machine that is on a telephone network connected to a cell tower by any telephonic means. The signal strength indicator tells whether the phone is in range of receiving data objects. If a message indicator is present, the user is able to make a decision on whether to download the voicemail, text or e-mail message. If the user decides to download the message, the mobile computer system must send information from the transmitter to the similar machine to retrieve the message. Because data is transmitted and received by the mobile computer system to a similar machine in order to download the message, data is swapped with a similar machine. Upon swapping the outgoing email with the other machine, the machine receiving the electronic message data object is able to display its content on the machine's respective display, or article window store. The data object upon being swapped is treated like any other data object. Hawkins fails to disclose a system and method for accessing multiple machines.

33. McDonald discloses a system and method for efficiently processing messages stored in multiple message stores. McDonald refers to archived electronic message stores (Column 1, line 50) in use to store electronic messages that are physically stored as data objects containing text or other content

(Column 1, lines 65-67). Each message store can include an integral or separate archive message store for off-line storage (Column 5, lines 8-11) that can be considered a retained object portion for storing data objects which the user has decided to keep. Each message store may contain an "Outbox" message folder for outgoing messages and the like (Column 5, lines 14-15) that can be considered a selected article window portion of the data store in which data objects are placed for which the user has taken a preliminary decision to dispose of provided an acceptable swap deal can be arranged.

34. Motivation exists for the inventor to connect two message stores in different mobile computer systems such as Hawkins by way of McDonald's method and system because electronic messaging has brown to encompass automated workgroup activities, the exchange of electronic documents and multimedia content, and can be easily be communicated to an audience ranging from a single user, a work group, a corporation, or even the world at large (McDonald, Column 1, lines 17-25) Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to combine the teaching of Hawkins and McDonald for the reasons described above. By this rationale claims 46-48 and 70-72 are rejected.

35. Claims 52, 76 and 88-89 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claims 42 and 60 above, and further in view of Giobbi (U.S. Patent No. 6,749,510).

36. Claim 76 claims a mobile computer system as claimed in claim 60 in which *the data object includes a game program, and the program stores steps for controlling the store, processor and transceiver for causing (a) the transceiver to transmit a signal indicating the current owner of the game program will allow the user of the another similar machine within range to sample playing of the game by exercising game control via the transceiver of the machine and (b) the game program to be run on the machine of the current game owner in response to signals received by the transceiver of the machine from the transceiver of the another machine..*

37. Claim 52 claims a machine in which the game implemented by the digital data object involves an additional player or players who communicate with the said entertainment machine, on which the game is run, by means of a short-range wireless network, the additional player/s not gaining access to a copy of the game through playing the game.

38. Claim 88 claims a machine in which the digital data object is a game program which when run on the entertainment machine enables the user to play a game. Claim 89 claims a machine as in claim 88 in which the game implemented by the digital data object involves an additional player or players who communicate with the said entertainment machine, on which the game is run, by means of a short-range wireless network, the additional player/s not gaining access to a copy of the game through playing the game.

39. Hawkins discloses a mobile computer system as applied to claims 42 and 60. Hawkins fails to disclose the use of a game or allowing others to run the game remotely from the mobile computer system.

40. Giobbi discloses a centralized gaming system (column 2, lines 38-39) in which a display terminal (Column 2, line 40), or remote computer, visually represents the outcome (column 2, lines 50-53) of a game executed by a master game server (column 2, lines 43-50). The remote display terminal and the central server system are comprised of a master game server, a multi-user game execution server, and database server (column 3, lines 27-29). The central server system is where the game is located and executed, and can be alternatively described as the current game owner. The display terminal may include physical lighted push buttons or other means for selecting the game selection indicia (column 5, lines 32-35), which can be alternatively described as buttons used to control the game. The display terminal and the central server system may each be outfitted with transceivers that support two-way wireless communication (column 3, lines 41-43). If the same game is selected for play at more than one remote display terminals at the same time, the game play software utilizes true multi-user procedures so that only one copy of the game play software for that game need be loaded into the game execution server.

41. Motivation would exist for a user of Giobbi's centralized gaming system to utilize remote handheld units (column 2, lines 22-27) such as Hawkins' mobile computer system because downloading the game software to the gaming machine across a communications link can be time-consuming and subject to security concerns (Giobbi column 1, lines 64-67).

42. It would be obvious to one of ordinary skill in the art that Hawkins' mobile computer system would work well with Giobbi's centralized gaming system which allows remote users to execute their games on another machine without downloading the software. By this rationale claims 52 and 76 are rejected.

43. Claims 54-58 and 78-82 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claims 42 and 60 above, and further in view of RFC 765, File Transfer Protocol (FTP), published October 1985.

44. Hawkins fails to disclose swap proposal indicator means.

45. RFC 765 states that the User-PI (protocol interpreter) (2.2) initiates the control connection to the server and initiates FTP commands. The User-PI is the claimed machine in Claim 20, and the FTP commands include RETRIEVE and STORE (4.1.3), which are swap proposal indicator means for indicating to another, similar machine the swap transaction being proposed. The FTP command LIST (4.1.3) causes a list to be sent from the server to the passive DTP (data transfer process, see 2.2) of a list of files in the specified directory. The LIST command is a linking indicator function adapted to link the representations of the digital data objects, or files, held by the two machines in their selected article window stores, or specified directories, and to communicate that link indicator to the other machine. The RETRIEVE command (RETR, 4.1.3), or output of the linking indicator function of the machine which first suggests a swap proposal, causes the server-DTP to transfer a copy of the file, specified in the pathname, to the server- or user-DTP at the other end of the data connection. Transferring a copy of the file is the swap approval indicator means, which is adapted to respond to transmit a response to the other machine in answer to the output of the linking indicator. The FTP commands specify the parameters for the data connection (data port, transfer mode, representation type, and structure) and the nature of file system operation (store, retrieve, append, delete, etc.). (2.3) These parameters comprise swap control function arranged to be initiated on acceptance of a proposed swap by a similar such machine. The data connection in FTP may be used for simultaneous sending and receiving (2.3). This data connection in FTP comprises a swap protocol utilized, which ensures that the data objects that have been agreed to be swapped are transmitted simultaneously by the two machines.

46. Motivation exists for the inventor to transfer files between two hosts, as stated in 2.3 of RFC 765. Both hosts would be the two machines swapping files.

47. It is obvious to one of ordinary skill in the art to utilize the File Transfer Protocol with the Mobile Computer System to transfer files, or digital objects, to other machines.

48. Claims 59 and 83-87 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claims 42 and 60 above, and further in view of Ramachandran et al. (U.S. Patent No. 6,47,640).

49. Hawkins discloses a machine comprising data object input means to enable data objects to be loaded into the machine as applied to claims 42 and 60. Hawkins further discloses a physical serial connection for the mobile computer system (Column 2, lines 64-65). Both a physical serial connection and a wireless connection can be considered data object input means comprising a reader when used to connect with a physical storage medium because the physical storage medium is being read for data. Hawkins fails to disclose using the mobile computer system with a data object vendor to use purchasing transactions to enable data objects to be loaded.

50. Ramachandran discloses an automated transaction machine (ATM) that is operative to dispense digital information to a portable computing system (Column 3, lines 24-27) such as digital sound recordings (Column 3, lines 54-57). Digital information can be considered a data object, and the ATM can be considered a data object vendor. The ATM is programmed to accept a fee from a user in exchange for outputting either digital information or saving digital information to a portable storage medium or portable computing device (Column 4, lines 50-54). Accepting a fee from a user in exchange for outputting digital information can be considered a purchasing transaction. The ATM can communicate with the portable computing device through various communications ports including Universal Serial Bus Port, Parallel Port, RS-232 Serial Port, Infrared Ports, Radio Frequency Ports, or any other type of wireless communication port (Column 4, lines 45-49). Cellular telephony is a type of wireless communication, and is considered to fall under the terminology "any other type of wireless communication port." Ramachandran further teaches the use of the ATM with Secure Digital Music Initiative (SDMI) files,

which limit the playback and duplication of the files (Column 2, lines 27-36). It is considered inherent to Ramachandran that access to the data objects stored within the ATM will be disabled upon conclusion of the purchasing transaction. Connecting to the ATM is considered the same as connecting to a physical storage medium, because it is deemed inherent that the files or digital information or data objects are stored within the ATM on a physical storage medium such as a hard disk. Without a physical storage medium to store the data objects, the ATM would be unable to distribute the data objects if they were stored in volatile memory and there was a loss of power.

51. Motivation exists for the inventor to use the ATM to dispense digital information to personal handheld computer systems like Hawkins using either wireless connections or connecting to increase income for the ATM (Ramachandran, Column 1, lines 36-44), or to offer alternative file formats with built in copy protection which limit the playback and duplication of the files (Ramachandran, Column 2, lines 27-36).

52. It is obvious to one of ordinary skill in the art to use the Hawkins device to purchase digital information, or data objects, from ATMs as disclosed by Ramachandran. It is obvious to one of ordinary skill in the art that connecting Hawkins to the Ramachandran ATM is equivalent to reading the physical storage medium in Ramachandran. When the data is read from the physical storage medium to Hawkins, the data is considered loaded on to Hawkins. It is obvious to one of ordinary skill in the art that at the conclusion of the purchasing transaction the access to the ATM physical storage medium will be disabled. It is obvious to one of ordinary skill in the art that if both the ATM and the Hawkins device have wireless communications ability that said wireless communications ability should be utilized in accessing the data objects. It is obvious to one of ordinary skill in the art that cellular telephony is a type of wireless communications and should be utilized in accessing the ATM. By this rationale claims 59 and 83-87 are rejected.

53. Claim 64 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 60 above, and further in view of Khan et al. (US Patent No. 6,754,509).

54. In regard to claim 64, Hawkins is applied as in claim 60. Hawkins further discloses *a voice-activated control.*

55. Hawkins discloses a mobile computer system designed for wireless communication enhancement as applied to Claim 60. Hawkins also employs a digital signal processor (DSP) in the cellular component of the mobile computer system (Figure 4, item 460). Hawkins fails to disclose the ability to use voice-activation with the DSP.

56. Khan discloses a mobile communication device that is capable of voice recognition (Column 5, line 66 – Column 6, line 2). Khan teaches that a DSP is typically employed to perform vocoder functions (Column 2, lines 40-41) but can also be used by a personal digital assistant (PDA) to respond to voice commands (Column 2, lines 41-43).

57. It would have been obvious to one of ordinary skill in the art at the time of the invention that the DSP in the Hawkins mobile computer system could be modified to accept voice commands in order to operate the system via voice activation so that the user can operate the device by using voice commands for the cellular component. (Khan, Column 5, line 66 – Column 6, line 2).

58. Claim 90 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 88 above, and further in view of Giobbi as applied to claim 88 above, and even further in view of Lavanchy et al. (U.S. Patent No. 6,758,754).

59. Claim 90 claims a machine as claimed in claim 88 in which the digital data object comprises a game feature for assisting a player to play a game.

60. Hawkins discloses a mobile computer system with wireless communication expansion as applied to claim 60. Giobbi discloses a system and method of running a game remotely over a wireless connection as disclosed in Claim 88. Hawkins and Giobbi fail to disclose a feature to assist a player in playing a game.

61. Lavanchy discloses a system and method for interactive game play including a home page to introduce concepts, explain procedures and rules, and present various aspects of the competition

(column 6, lines 4-6). Since this explains procedures and rules of the competition/game, the home page can be described as a game feature for assisting a player to play a game.

62. Motivation exists for the inventor to add Lavanchy's home page to the game running remotely via Giobbi's system and method on Hawkins' device. Lavanchy's home page could display a brief paragraph (column 6, line 10) explaining how the game works (column 6, lines 11-12).

63. It would be obvious to someone of ordinary skill in the art to add Lavanchy's home page of procedures and rules to a game running via Giobbi's system on Hawkins' device.

64. Claim 92 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 60 above, and further in view of CNET.com – Downloads – PalmPilot – PC – Utilities, hereafter referred to as CNET, published on June 9, 2000.

65. Hawkins discloses a mobile computer system able to transfer data over the World Wide Web as applied to claim 60 above. Hawkins further discloses that the organizer portion of the mobile computer system is equivalent to the PalmPilot (Column 1, lines 16-17). Hawkins fails to disclose digital objects that enhance the functionality of the existing machine.

66. CNET discloses 138 downloadable utilities for the PalmPilot, which enhance the functionality of the organizer.

67. Motivation exists for the inventor to connect the Hawkins machine to the Web (Hawkins Column 3, line 47) to download software to perform functions including performing a complete backup of the organizer and customizing the alarm (CNET).

68. It would be obvious to one of ordinary skill in the art to use the Hawkins device to connect to the World Wide Web and download one of CNET's utilities to enhance the functionality of the device.

69. Claim 93 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 91 above, and further in view of Armanto et al., (U.S. Patent No. 6,094,587).

70. Hawkins discloses a mobile computer system adapted to be operable as a mobile telephone with electronic visual display used to display the digital objects currently held in the digital object store of the other machine as applied to Claim 91. Hawkins fails to disclose the digital object can be a ring tone.

71. Armanto discloses that users of a mobile station, or mobile computer system, can send ringing tones to each other. (Column 4, lines 16-17)

72. Motivation exists for users to swap ringing tones that the user has programmed themselves. (Column 4, lines 25-30).

73. It is obvious to one of ordinary skill in the art to swap ring tones between the Hawkins devices.

74. Claims 95-98 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins as applied to claim 61 above, and further in view of Ozkan et al., (U.S. Patent No. 6,748,421).

75. Hawkins discloses a mobile computer system with electronic visual display as applied to Claim 61. Hawkins further discloses a speaker unit that is present in the machine (Figure 3A, item 365). Hawkins fails to disclose that the displayed object can take the form of a decorative virtual card or token, or that the displayed object can comprise a moving image with associated textual information or audio information suitable for playback by the machine.

76. Ozkan discloses a method of conveying video messages (Column 1, line 8). These video messages include image data and associated audio data (Column 2, lines 1-2). Additional information can be assigned in labels, which can describe the topic or content of the video message (Column 9, lines 42-45). Said labels can be described as associated textual information, which is displayed on the display as shown in Figure 7. The image data in the video messages can be alternately described as a decorative virtual card or token, as a decorative virtual card or token is synonymous with image. The video messages are transported by use of Internet and/or intranet or other data or file transfer method or system (Figure 13A, item 1301) between two computers (Figure 13A, items 1200 and 1300).

77. Motivation exists for the inventor to convey video messages between two computers, such as two send a weekly report to one or more recipients (Column 1, lines 51-52). Hawkins' device is a mobile computer, and being such qualifies for this video message conveyance system.

78. It is obvious to someone of ordinary skill in the art to transmit video messages as described by Ozkan via data transfer to handheld computers such as the Hawkins device.

79. Claim 99 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hawkins and Official Notice.

80. In regard to claim 99, Hawkins discloses a method comprising *transmitting, from the transceiver of the first machine to the transceiver of the second machine, a first signal representing a first digital game object stored in the store of the first machine; receiving the first signal at the transceiver of the second machine; responding to the first signal, as received by the transceiver of the second machine, by deriving at the second machine a first indication of the first game object; responding to the first indication by making a decision at the second machine as to whether a swap is desired between a second digital game object stored in the store of the second machine and the first game object; in response to the decision being yes, transmitting from the transceiver of the second machine to the transceiver of the first machine a second signal representing a second digital game object stored in the store of the second machine; receiving the second signal at the transceiver of the first machine; responding to the second signal, as received by the transceiver of the first machine, by deriving at the first machine a second indication of the second game object; responding to the second indication by making a decision at the first machine as to whether a swap is desired between the first and second game objects; in response to the decision at the first machine being yes, removing the first game object from the store of the first machine and transmitting a third signal from the transceiver of the first machine to the transceiver of the second machine and removing the second game object from the store of the second machine and transmitting a fourth signal from the transceiver of the second machine to the transceiver of the first machine, the third and fourth signals respectively indicating a transfer of the first game object from the first machine to the second machine and a transfer of the second game object from the second machine to the first machine; responding, at the first machine, to receipt of the fourth signal by loading an indication of the second game object into the store of the first machine; and responding, at the second machine, to receipt of the fourth signal by loading an indication of the first game object into the store of the second machine.* The above limitations have been met by the rejections for claims 60, 67, 69, 70, 71, 72, 81, and 82. Hawkins fails to disclose deleting an object from the store. However, the Office takes Official Notice that deleting objects from memories of computing devices has been well known in the art

for decades. Therefore it would be obvious to one of ordinary skill in the art at the time of the invention to delete items no longer needed from the Hawkins device to save storage space. By this rationale claim 99 is rejected.

Response to Arguments

81. Applicant's arguments filed 12/30/04 have been fully considered but they are not persuasive. Applicant has only chosen to argue that the Hawkins reference does not support swapping of files. The Examiner believes that Hawkins does support swapping of files. Hawkins allows for file transmission using cellular technology. Cellular technology is bidirectional. See Hawkins, column 4, lines 5-14. Swapping files is at its most basic definition a request-response situation for a network. One computer requests a file and another computer responds with that file. Then the other computer requests a file and the first computer responds with that file. This is the basis of TCP/IP – the cornerstone of modern networking. In TCP/IP, one computer requests a file from another computer and that computer responds. The first computer acknowledges receipt of the file. Hawkins utilizes cellular data services. See Hawkins, column 6, lines 48-60. See Hawkins, column 7, lines 29-35. The Examiner believes cellular data services would function inherently using TCP/IP when connected to modern networks. Because TCP/IP is inherent from this line of reasoning, file swapping would be likewise inherent.

82. Applicant seems to place significant weight on the term **game**, since Applicant has amended or cancelled and resubmitted most of the initial claims with a minor change in wording from "data object" or "digital object" to "game object" or "digital game object". The meaning of what is considered a **game** and what is not considered a **game** varies greatly from person to person; therefore the Examiner has not given **game** any patentable weight.

83. Because Applicant has chosen not to argue any other rejections and/or references or aspects of references, the Examiner has opted not to give any rebuttals to further arguments not presented.

Conclusion

84. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571) 272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on 571-272-6159. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JRS

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